

Discipline and Students with Disabilities Questions and Answers

1. Does the Missouri Safe Schools Act apply to students with disabilities?

Yes. However, this state law specifies that its provisions are subject to the state and federal regulations on disciplining students with disabilities. Those provisions come into play primarily where the disciplinary action involves a long-term suspension (defined in question #7) or expulsion, and where a student has been expelled from a prior district and is seeking to enroll in a new one.

2. Can students with disabilities be removed from school for possession of a dangerous weapon, possession or use of illegal drugs, or sale or solicitation of a controlled substance or infliction of serious bodily injury?

Yes. Such students may be removed from school in several ways: (1) a 45-school-day interim alternative educational placement; (2) court injunction; (3) a long-term suspension or expulsion if the student's conduct is determined to be unrelated to the student's disability; or (4) a 45-school-day interim alternative educational placement following a decision by a formal due process hearing that the student is dangerous. (The 45-school-day interim placement also can be renewed through additional due process hearings if the student is deemed to be dangerous.)

3. Can a school district "stack" suspensions when drugs, weapons, or serious bodily injury are involved?

Yes. When a student is involved with a dangerous weapon, drug situation, or infliction of serious bodily injury there is nothing to prohibit the school district from imposing an initial short-term suspension, followed by a 45-school-day alternative interim educational placement, and followed by a long-term suspension or expulsion (if the student's conduct is then determined unrelated to the disability).

4. Are school districts required to use 45-school-day placement for drugs, weapons, or serious bodily injury or can they go right to a long-term suspension/expulsion if conduct is unrelated to the student's disability?

No, a school district is not required to use the 45-school-day interim alternative educational placement when a student is involved with a dangerous weapon, drugs, or serious bodily injury. A school district may proceed immediately to a long-term suspension or expulsion if relevant members of the IEP team and parent determine the conduct is unrelated to the disability. As stated above, the school district may also "stack" suspensions. This means a school district could short-term suspend a student to allow time to determine if the child's disability is related to the behavior that is subject to the disciplinary action (manifestation determination). If the conduct is determined to be unrelated to the student's disability, a long-term suspension or expulsion may then be imposed.

5. How does the school district remove students with disabilities from school if they are dangerous or violent?

There are four options: (1) A court injunction; (2) a due process hearing order for a 45-school-day interim alternative educational setting; (3) a long-term suspension or expulsion if the conduct is unrelated to the disability; or, (4) a change of placement through the IEP process to a more restrictive environment based on educational needs of the student. This last method cannot be used as a long-term suspension/disciplinary option.

6. When a student with a disability is suspended for more than 10 days in a school year, does the student still receive services?

It depends. When a student with a disability is suspended for more than 10 days in a school year, but is not long-term suspended, the school district administration, in consultation with the child's teacher, will determine if services are needed. This is not an IEP team decision.

7. What is considered a "long-term" suspension?

A long-term suspension is a suspension in excess of 10 consecutive days or in excess of 10 days cumulatively where a pattern of suspension is created. The determination of whether there is a pattern involves an analysis of the duration and frequency of each suspension and the total amount of time the student is excluded for the school year. The type of conduct involved in each incident has no bearing on whether a pattern is created.

8. When can students with disabilities be long-term suspended or expelled?

Students with disabilities may be long-term suspended or expelled if the conduct leading to the discipline is unrelated to the student's disability. However, even where the conduct is unrelated, the student must continue to receive a free appropriate public education (FAPE) and services which allow for continued progress in general education curriculum pursuant to an Individualized Education Program (IEP) during the period of long-term suspension or expulsion.

9. What are some discipline options that can be used with a student with a disability?

Short-term suspensions; community service; detentions; paying for damage to school property; Saturday school; counseling or social skills training; long-term suspensions or expulsions (if the conduct is determined unrelated to the disability); 45-school-day interim alternative educational placements if the student possessed a dangerous weapon, or possessed/used illegal drugs, solicited/sold controlled substances or inflicted serious bodily injury.

10. Services must continue to a student with a disability who has been long-term suspended or expelled. Is a homebound placement an option and who determines this?

The IEP team determines what services are necessary for the student to receive a free, appropriate public education and continue to progress in the general education curriculum. Homebound placement may be an appropriate option to consider as are alternative schools, or contractual arrangements with other districts or private agencies or mutually agreed sites off school grounds.

11. Do students have a right to services when short-term suspended?

No. Students who receive short-term, out-of-school suspensions do not have a right to continued services. However, if such students have been suspended in excess of 10 days cumulatively, the school administrator, in consultation with the student's teacher, will determine whether the student needs services to continue to appropriately progress during the out-of-school suspension. This decision is not an IEP team decision.

This document and additional information regarding discipline and students with disabilities is available on the Division of Special Education Web page: www.dese.state.mo.us/divspped/.

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